

address of official at bank) and Deputy Comptroller (address). Your letter, together with any response by us, will be considered by the Comptroller in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Deputy Comptroller. You may also request from the Deputy Comptroller an announcement of our applications covered by the CRA filed with the Comptroller. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the CRA filed by bank holding companies.

(b) *Notice for branch offices.*

#### COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Comptroller of the Currency evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Comptroller also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Comptroller, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) A map showing the assessment area containing this branch, which is the area in which the Comptroller evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the Comptroller publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Deputy Comptroller (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and Deputy

Comptroller (address). Your letter, together with any response by us, will be considered by the Comptroller in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Deputy Comptroller. You may also request from the Deputy Comptroller an announcement of our applications covered by the CRA filed with the Comptroller. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the CRA filed by bank holding companies.

[60 FR 22189, May 4, 1995]

## PART 26—MANAGEMENT OFFICIAL INTERLOCKS

### Sec.

- 26.1 Authority, purpose, and scope.
- 26.2 Definitions.
- 26.3 Prohibitions.
- 26.4 Interlocking relationships permitted by statute.
- 26.5 Small market share exemption.
- 26.6 General exemption.
- 26.7 Change in circumstances.
- 26.8 Enforcement.

AUTHORITY: 12 U.S.C. 93a and 3201–3208.

SOURCE: 61 FR 40300, Aug. 2, 1996, unless otherwise noted.

### § 26.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act (Interlocks Act) (12 U.S.C. 3201 *et seq.*), as amended, and the OCC's general rulemaking authority in 12 U.S.C. 93a.

(b) *Purpose.* The purpose of the Interlocks Act and this part is to foster competition by generally prohibiting a management official from serving two nonaffiliated depository organizations in situations where the management interlock likely would have an anti-competitive effect.

(c) *Scope.* This part applies to management officials of national banks, District banks, and affiliates of either.

### § 26.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate.* (1) The term *affiliate* has the meaning given in section 202 of the Interlocks Act (12 U.S.C. 3201). For purposes of that section 202, shares held by

an individual include shares held by members of his or her immediate family. “Immediate family” means spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(2) For purposes of section 202(3)(B) of the Interlocks Act (12 U.S.C. 3201(3)(B)), an affiliate relationship involving a national bank based on common ownership does not exist if the OCC determines, after giving the affected persons the opportunity to respond, that the asserted affiliation was established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the OCC considers, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate to that person’s ownership of shares in the other organization.

(b) *Area median income* means:

(1) The median family income for the metropolitan statistical area (MSA), if a depository organization is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a depository organization is located outside an MSA.

(c) *Community* means a city, town, or village, and contiguous or adjacent cities, towns, or villages.

(d) *Contiguous or adjacent cities, towns, or villages* means cities, towns, or villages whose borders touch each other or whose borders are within 10 road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is the boundary line of that city, town, or village for the purpose of this definition.

(e) *Depository holding company* means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States.

(f) *Depository institution* means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a home-stead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a depository institution.

(g) *Depository institution affiliate* means a depository institution that is an affiliate of a depository organization.

(h) *Depository organization* means a depository institution or a depository holding company.

(i) *District bank* means any State bank operating under the Code of Law of the District of Columbia.

(j) *Low- and moderate-income areas* means census tracts (or, if an area is not in a census tract, block numbering areas delineated by the United States Bureau of the Census) where the median family income is less than 100 percent of the area median income.

(k) *Management official*. (1) The term *management official* means:

(i) A director;

(ii) An advisory or honorary director of a depository institution with total assets of \$100 million or more;

(iii) A senior executive officer as that term is defined in 12 CFR 5.51(c)(3);

(iv) A branch manager;

(v) A trustee of a depository organization under the control of trustees; and

(vi) Any person who has a representative or nominee serving in any of the capacities in this paragraph (m)(1).

(2) The term *management official* does not include:

(i) A person whose management functions relate exclusively to the business of retail merchandising or manufacturing;

(ii) A person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or

(iii) A person described in the provisions of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)) (referring to an officer of a State-chartered savings

### § 26.3

### 12 CFR Ch. I (1–1–01 Edition)

bank, cooperative bank, or trust company that neither makes real estate mortgage loans nor accepts savings).

(l) *Office* means a principal or branch office of a depository institution located in the United States. *Office* does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office.

(m) *Person* means a natural person, corporation, or other business entity.

(n) *Relevant metropolitan statistical area (RMSA)* means an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated primary MSAs to the extent that these terms are defined and applied by the Office of Management and Budget.

(o) *Representative or nominee* means a natural person who serves as a management official and has an obligation to act on behalf of another person with respect to management responsibilities. The OCC will find that a person has an obligation to act on behalf of another person only if the first person has an agreement, express or implied, to act on behalf of the second person with respect to management responsibilities. The OCC will determine, after giving the affected persons an opportunity to respond, whether a person is a *representative or nominee*.

(p) *Total assets*. (1) The term *total assets* means assets measured on a consolidated basis and reported in the most recent fiscal year-end Consolidated Report of Condition and Income.

(2) The term *total assets* does not include:

(i) Assets of a diversified savings and loan holding company as defined by section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F)) other than the assets of its depository institution affiliate;

(ii) Assets of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)) other than the assets of its depository institution affiliate; or

(iii) Assets of offices of a foreign commercial bank other than the assets of its United States branch or agency.

(q) *United States* means the United States of America, any State or territory of the United States of America,

the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

[61 FR 40300, Aug. 2, 1996, as amended at 64 FR 51678, Sept. 24, 1999]

### § 26.3 Prohibitions.

(a) *Community*. A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same community.

(b) *RMSA*. A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same RMSA and each depository organization has total assets of \$20 million or more.

(c) *Major assets*. A management official of a depository organization with total assets exceeding \$2.5 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding \$1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. The OCC will adjust these thresholds, as necessary, based on the year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest \$100 million. The OCC will announce the revised thresholds by publishing a final rule without notice and comment in the FEDERAL REGISTER.

[61 FR 40300, Aug. 2, 1996, as amended at 64 FR 51678, Sept. 24, 1999]

### § 26.4 Interlocking relationships permitted by statute.

The prohibitions of § 26.3 do not apply in the case of any one or more of the following organizations or to a subsidiary thereof:

(a) A depository organization that has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function;

(b) A corporation operating under section 25 or section 25A of the Federal Reserve Act (12 U.S.C. 601 *et seq.* and 12 U.S.C. 611 *et seq.*, respectively) (Edge Corporations and Agreement Corporations);

(c) A credit union being served by a management official of another credit union;

(d) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(e) A State-chartered savings and loan guaranty corporation;

(f) A Federal Home Loan Bank or any other bank organized solely to serve depository institutions (a bankers' bank) or solely for the purpose of providing securities clearing services and services related thereto for depository institutions and securities companies;

(g) A depository organization that is closed or is in danger of closing as determined by the appropriate Federal depository institutions regulatory agency and is acquired by another depository organization. This exemption lasts for five years, beginning on the date the depository organization is acquired; and

(h)(1) A diversified savings and loan holding company (as defined in section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F)) with respect to the service of a director of such company who also is a director of an unaffiliated depository organization if:

(i) Both the diversified savings and loan holding company and the unaffiliated depository organization notify their appropriate Federal depository institutions regulatory agency at least 60 days before the dual service is proposed to begin; and

(ii) The appropriate regulatory agency does not disapprove the dual service before the end of the 60-day period.

(2) The OCC may disapprove a notice of proposed service if it finds that:

(i) The service cannot be structured or limited so as to preclude an anti-

competitive effect in financial services in any part of the United States;

(ii) The service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(iii) The notificant failed to furnish all the information required by the OCC.

(3) The OCC may require that any interlock permitted under this paragraph (h) be terminated if a change in circumstances occurs with respect to one of the interlocked depository organizations that would have provided a basis for disapproval of the interlock during the notice period.

#### § 26.5 Small market share exemption.

(a) *Exemption.* A management interlock that is prohibited by § 26.3 is permissible, if:

(1) The interlock is not prohibited by § 26.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20 percent of the deposits in each RMSA or community in which both depository organizations (or their depository institution affiliates) have offices. The amount of deposits shall be determined by reference to the most recent annual Summary of Deposits published by the FDIC for the RMSA or community.

(b) *Confirmation and records.* Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

[64 FR 51678, Sept. 24, 1999]

#### § 26.6 General exemption.

(a) *Exemption.* The OCC may by order issued following receipt of an application, exempt an interlock from the prohibitions in § 26.3 if the OCC finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.

(b) *Presumptions.* In reviewing an application for an exemption under this section, the OCC will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the

## § 26.7

depository organization seeking to add a management official:

(1) Primarily serves low-and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group, or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in "troubled condition" as defined in 12 CFR 5.51(c)(6).

(c) *Duration.* Unless a specific expiration period is provided in the OCC approval, an exemption permitted by paragraph (a) of this section may continue so long as it does not result in a monopoly or substantial lessening of competition, or is unsafe or unsound. If the OCC grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided by the OCC in writing.

[64 FR 51678, Sept. 24, 1999]

### § 26.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service or apply for an exemption if a change in circumstances causes the service to become prohibited. A change in circumstances may include an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or any reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

(b) *Transition period.* A management official described in paragraph (a) of this section may continue to serve the depository organization involved in the interlock for 15 months following the date of the change in circumstances. The OCC may shorten this period under appropriate circumstances.

[61 FR 40300, Aug. 2, 1996, as amended at 64 FR 51678, Sept. 24, 1999]

### § 26.8 Enforcement.

Except as provided in this section, the OCC administers and enforces the

## 12 CFR Ch. I (1-1-01 Edition)

Interlocks Act with respect to national banks, District banks, and affiliates of either, and may refer any case of a prohibited interlocking relationship involving these entities to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of a national bank or a District bank is subject to the primary regulation of another Federal depository organization supervisory agency, then the OCC does not administer and enforce the Interlocks Act with respect to that affiliate.

## PART 27—FAIR HOUSING HOME LOAN DATA SYSTEM

Sec.

27.1 Scope and OMB control number.

27.2 Definitions.

27.3 Recordkeeping requirements.

27.4 Inquiry/Application Log.

27.5 Record retention period.

27.6 Substitute monitoring program.

27.7 Availability, submission and use of data.

APPENDIXES TO PART 27

APPENDIX I—MONTHLY HOME LOAN ACTIVITY FORMAT

APPENDIX II—INFORMATION FOR GOVERNMENT MONITORING PURPOSES

APPENDIX III—FAIR HOUSING LENDING INQUIRY/APPLICATION LOG SHEET

APPENDIX IV—HOME LOAN DATA SUBMISSION

AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 1 *et seq.*, 93a, 161, 481, and 1818; 15 U.S.C. 1691 *et seq.*; 42 U.S.C. 3601 *et seq.*; 12 CFR part 202.

SOURCE: 44 FR 63089, Nov. 2, 1979, unless otherwise noted.

### § 27.1 Scope and OMB control number.

(a) *Scope.* This part applies to the activities of national banks and banks located in the District of Columbia, and their subsidiaries, which make home loans for the purpose of purchasing, construction-permanent financing, or refinancing of residential real property.

(b) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557-0160.

[49 FR 11825, Mar. 28, 1984]